REMARKS

I. Introduction

Claims 27 to 55 stand rejected. Claims 27, 48, and 55 have been amended. New claims 56-59 have been added. The amendment does not include new matter and is supported by the originally filed disclosure. Claims 27 to 59 are pending. In view of the forgoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

II. Restriction Requirement

Claims 40-42 depend from linking claim 27. Since, as explained below, claim 27 is allowable, rejoinder of claims 40-42 is respectfully requested.

In addition, Applicant respectfully disagrees with the Office Action's reasoning for the restriction. The Office Action states that "new claim 40 incorporated a skill based game, where the originally claimed lottery is a purely chance based game, and new claims 41-42 are drawn to event based wagering, and specifically sports related wagering, where the originally claimed invention is drawn to a lottery system and specifically an instant and interactive lottery game system." *Office Action* at 2. The Office Action's characterization of the claims is not correct. The interactive game recited in claim 27 is not limited to a lottery game.

III. Rejection of Claim 55 Under 35 U.S.C. § 112, Second Paragraph

Claim 55 was rejected under 35 U.S.C. § 112, second paragraph. Specifically, the Office Action asserted that the claim language "without receiving a tender of the removable covering" is indefinite. While the rejection is not necessarily agreed with, to improve clarity, claim 55 is amended, removing the quoted language. Withdrawal of the rejection is respectfully requested.

IV. Rejection of Claims 27 to 37, 43 to 46, and 48 to 54 Under 35 U.S.C. § 102(b)

Claims 27 to 37, 43 to 46, and 48 to 54 were rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,569,082 ("Kaye"). Claims 27 to 37, 43 to 46, and 48 to 54 are not anticipated, nor rendered obvious, by Kaye for at least the following reasons.

To anticipate a claim, the reference must teach every element of the claim. See MPEP 2131. The identical invention must be shown in as complete detail as is contained in

the claim. See *id.* (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989)). It is respectfully submitted that the Kaye reference does not anticipate any of the above claims because it does not teach or suggest each and every feature of those claims.

Some example embodiments of Applicant's claimed invention generally relate to methods and systems related where an instant lottery ticket can optionally be activated for use in a supplemental interactive game, or also can be purchased without activating this feature. In contrast, Kaye does not teach or suggest such a hybrid ticket, or any game or game ticket dispenser with this feature.

Claims 27 and 48 have both been amended to improve clarity. These claims already recited a system and a method where a player could purchase an instant lottery ticket and optionally choose to activate the instant lottery ticket for use in a supplemental interactive game. To improve clarity, and to make clearer that the recited feature relates to the input of a choice between alternatives by a player, Applicant has replaced "whether .. or" to "between ... and" in both claims 27 and 48. It is Applicant's belief that the original and amended recitations both describe the same feature; the new language is believed to further improve clarity without changing the scope of the claim. Applicant has also made explicit that the ticket could be dispensed as an instant win lottery ticket **without** activating the ticket for the interactive game, although Applicant believes this feature was implicit in the original claim.

Claim 27, as amended, recites in part:

> a lottery ticket, the lottery ticket including a ticket identifier, an interactive game information, an instant game information, and a removable covering concealing the instant game information;
>
> receiving an input indicating **a player's choice between purchasing the lottery ticket as a hybrid instant lottery ticket that is also usable in an interactive game and purchasing the lottery ticket without activating the lottery ticket for the interactive game**;
>
> responsive to the player's choice to purchase the lottery ticket without activating the lottery ticket for the interactive game and the acceptance of payment from the player for the lottery ticket, **dispensing the lottery ticket without activating the lottery ticket for use in the interactive game**;

The Kaye reference does not disclose or suggest a lottery ticket including, an interactive game information **and** an instant game information. The Office Action cites col. 1, lines 25-35 of Kaye for this feature. However, that section of the Kaye reference discusses only a conventional scratch-off lottery ticket, which does **not** include an interactive game information. Nowhere does the reference disclose or suggest a ticket with **both** an interactive game information **and** an instant game information are found on the same ticket. Kaye goes

on to discuss his "entertainment game". But, Kaye nowhere discusses using an instant lottery ticket as a token for his entertainment game. In fact, Kaye, in the paragraph immediately following the cited 1:25-35 paragraph, denigrates scratch-off games as "boring". This expressly teaches away from any combination of a conventional instant ticket with Kaye's game.

Kaye also does not teach or suggest **receiving an input indicating a player's choice between purchasing the lottery ticket as a hybrid instant lottery ticket that is also usable in an interactive game and purchasing the lottery ticket without activating the lottery ticket for the interactive game**. In addressing this feature, the Office Action states that Kaye describes "an input indicating a player's choice to purchase a ticket (col. 4, lins. 40 - 52) for use only as an instant lottery ticket or as a hybrid instant lottery ticket that is also usable in an interactive game (col. 7, lins. 45 - 54; where a player may choose on a menu to play either a simple "lotto" game or an interactive 'horses game" using a lottery ticket)." *Office Action* at 3. However, the cited portions of the reference fail to disclose or suggest **an input indicating a player's choice between purchasing ... a hybrid instant lottery ticket ... and lottery ticket [not activated] for the interactive game.** Rather, col. 4, lines 40-52 describe only purchasing tickets with Kaye's destiny code, which is the code used in his "entertainment game". Nothing in the references discloses or suggests the player can purchase a lottery ticket from Kaye's system as an instant game only, or as a hybrid instant and interactive game. In addition, col. 7, lines 45-54, cited in the Office Action do not relate to purchasing a ticket in any way. Rather, the cited material appears to refer to several games that may be played as the entertainment game **after** a ticket has been purchased. The reference does not disclose or suggest an input indicating a player's choice of whether **to purchase a ticket** for use only as an instant lottery ticket or as a hybrid instant lottery ticket that is also usable in an interactive game.

Moreover, Kaye does not teach or suggest **responsive to the player's choice to purchase the lottery ticket without activating the lottery ticket for the interactive game and the acceptance of payment from the player for the lottery ticket, dispensing the lottery ticket without activating the lottery ticket for use in the interactive game.** Kaye nowhere mentions that his device can dispense tickets that are not for his interactive game, e.g., tickets for just a scratch-off game, and in fact, as noted above, denigrates the sale of instant scratch-off lottery tickets.

It is therefore respectfully submitted that claim 27, and its dependent claims 38 to 47, are patentable over Kaye.

Claim 48, as amended, recites in part:

> receiving an input indicating a player's choice between purchasing the lottery ticket as a hybrid instant lottery ticket that is also usable in an interactive game and purchasing the lottery ticket without activating the lottery ticket for the interactive game;
>
> responsive to the player's choice to purchase the lottery ticket without activating the lottery ticket for the interactive game and the acceptance of payment from the player for the lottery ticket, dispensing the lottery ticket without activating the lottery ticket for use in the interactive game;

Similar to the discussion above for claim 27, the Kaye reference does not disclose or suggest **an input indicating a player's choice between purchasing the lottery ticket as a hybrid instant lottery ticket that is also usable in an interactive game and purchasing the lottery ticket without activating the lottery ticket for the interactive game.** Kaye nowhere discusses a hybrid instant-interactive game ticket, and does not indicate that his "tokens" can be used for an instant game at all, either alone or in conjunction with his entertainment game. Kaye also does not disclose that his machine would dispense lottery tickets that are for an instant game but that are not usable for an interactive game. Kaye actually denigrates such tickets, teaching away from this claimed feature.

It is therefore respectfully submitted that claim 48, and its dependent claims 49 to 55, are patentable over Kaye.

Claim 55 has been amended to improve clarity. Separately and independently from the argument above for its parent claim, claim 55 recites that the interactive game information is provided on a covering for the instant game information, e.g., a peel off or pull off layer concealing the instant game layer. This information could then be retained by the player to the play the interactive game at a later time, after the ticket has been tendered for redemption of a prize in the instant game. This feature is not believed to be present in the cited art. Accordingly, the claim should be allowable for this additional reason.

V. Rejection of Claim 38 Under 35 U.S.C. § 103(a)

Claim 38 was rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,569,082 ("Kaye"). It is respectfully submitted that Kaye does not render obvious claim 38 for at least the following reasons.

Claim 38 depends from claim 27. As explained above, the Kaye reference does not disclose or suggest all of the features of independent claim 27. Therefore, Kaye does not disclose or suggest each of the elements of claim 38.

Accordingly, claim 38 is patentable over Kaye.

VI. Rejection of Claim 47 Under 35 U.S.C. § 103(a)

Claim 47 was rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,569,082 ("Kaye"), in view of U.S. Patent No. 5,772,510 ("Roberts"). It is respectfully submitted that proposed combination of Kaye and Roberts does not render obvious claim 47 for at least the following reasons.

Claim 47 depends from claim 27. As explained above, Kaye does not disclose or suggest all of the features of claim 27. It is not suggested in the Office Action that the Roberts reference cures the critical deficiencies of the Kaye reference. Therefore, the proposed combination of Kaye and Roberts does not disclose or suggest all of the features of either claim 27, or of its dependent claim 47.

Accordingly, claim 47 is patentable over the proposed combination of Kaye and Roberts.

VII. Rejection of Claim 39 Under 35 U.S.C. § 103(a)

Claim 39 was rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,569,082 ("Kaye"), in view of U.S. Patent No. 5,356,144 ("Fitzpatrick"). It is respectfully submitted that proposed combination of Kaye and Fitzpatrick does not render obvious claim 39 for at least the following reasons.

Claim 39 depends from claim 27. As explained above, Kaye does not disclose or suggest all of the features of claim 27. It is not suggested in the Office Action that the Fitzpatrick reference cures the critical deficiencies of the Kaye reference. Therefore, the proposed combination of Kaye and Fitzpatrick does not disclose or suggest all of the features of either claim 27, or of its dependent claim 39.

Accordingly, claim 39 is patentable over the proposed combination of Kaye and Fitzpatrick.

VIII. New Claims 56-59

New claim 56 depends from claim 55, and therefore should be allowable for at least the same reasons as those given above for claim 55. New claims 57-59 depend from claim 46 and therefore should be allowable for at least the same reasons as their parent claim 46.

CONCLUSION

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited. The Commissioner is authorized to charge any fee arising in connection with the filing of this paper, including any necessary extension of time, to the deposit account of **Kenyon & Kenyon LLP**, Deposit Account No. **11-0600**. The Examiner is cordially invited to telephone the undersigned if any issue or question arises with respect to the present application.

Respectfully submitted,
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